

REMARKS

Claims 44-60 and 66-73 are pending in the current application. Claims 44, 66, 68, 69, and 72 have been amended. Claims 61-65 are canceled. Applicant reserves the right to pursue original and other claims in this and other applications.

Applicant acknowledges with appreciation the interview with Examiners Helena Kosanovic and Steven McAllister on September 3, 2008. The present amendment incorporates changes suggested in that interview.

Claims 44-54, 56-58, 60, 69-70, and 72-73 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,184,288 ("Magill"). Reconsideration of this rejection is respectfully requested.

Claim 44, as amended, recites a damper for an air flow duct comprising, *inter alia*:

ducting;

a damper element located internally from an inner surface of a circumferential wall of the ducting and movable between a first, closed position and a second, open position; . . . and

retention means for retaining the damper element in an open position,

the retention means comprising:

an actuating member; . . . and

a movable member in the through-hole and arranged so that it moves when the actuating member moves, the movable member being arranged such that it protrudes or protrudes further from an opening in the exterior of the body member externally from the outer surface of the circumferential wall of the ducting when the actuating member moves to release the damper element.

Magill does not disclose the elements of claim 44. Rather, Applicant respectfully submits that the sole supportable interpretation of the claim language, and of Magill, omits several elements of claim 44.

Although the Examiner, at page 11 of the Office Action, discusses the “pin” of Magill as element 70, Applicant notes that element 70 of Magill is the “replaceable fusible element,” as shown in Figures 9-11 of Magill. For purposes of this discussion, Applicant assumes the discussion of the “pin 70” on page 11 of the Office Action refers to the pin labeled as element 82 in Figures 9-11 of Magill.

The Examiner identifies the actuating pin 82 of Magill as corresponding to the “movable member” recited in claim 44. The Examiner interprets the pin 82 of Magill’s Figure 1 as “protruding externally from the ducting . . . wherein externally means outwardly from the [sic] both side walls 12 of the ducting 10.” The Examiner contrasts this interpretation of “externally,” with “inwardly” being “inside the two sidewalls 12 of ducting 10, where the gears 22 are located.” Office Action of June 12, 2008, at 11.

While disagreeing with the Examiner’s interpretation of Magill, Applicant notes that claim 44, as amended, clarifies that the movable member “protrudes or protrudes further from an opening in the exterior of the body member externally from the outer surface of the circumferential wall of the ducting when the actuating member moves to release the damper element.” In Magill, by contrast, the actuating pin 82 is withdrawn into the ducting internally from the inner surface of the circumferential wall of the ducting, see FIGs. 9-11; the asserted “movable member” (i.e., actuating pin 82) does not protrude or protrude further “from an opening in the exterior of the body member externally from the outer surface of the outer circumferential wall of the ducting when the actuating member moves to release the damper element,” as recited in claim 44 (emph. added).

Thus, Magill does not disclose all of the elements of claim 44. Claim 69 recites similar elements as claim 44, and is not disclosed by Magill for at least the reasons discussed above. Although the Examiner does not assert a ground for rejecting claim 68 in the outstanding Office Action, Applicant respectfully submits that this claim is also allowable for at least the reasons discussed above with regard to claim 44.

Claims 45-54, 56-58, and 60 depend from claim 44, and claim 70 depends from claim 69. Thus, these dependent claims are allowable for at least the reasons discussed above with regard to claim 44.

Accordingly, Applicant respectfully requests that the § 102(b) rejections of claims 44-54, 56-58, 60, and 68-70 be withdrawn, and the claims allowed.

Claims 66-67 and 72-73 also stand rejected under 35 U.S.C. § 102(b) as being anticipated by Magill. Reconsideration of this rejection is respectfully requested.

Claim 66 recites a damper for an air flow duct comprising, *inter alia*:

ducting;

a rotary damper element located internally from an inner surface of a circumferential wall of the ducting, the rotary damper element carried on an axle in the ducting and movable between a closed position and an open position;

biasing means biasing the damper element into its closed position; and

retention means retaining the damper element in an open position, the retention means comprising:

an actuating member;

a retention member which is fixed relative to the damper element and is secured by the action of the actuating member to retain the damper element in an open position, which securing can be released to release the damper element so that it is moved by the biasing means into its closed position;

a support member fixed to the inner surface of the circumferential wall of the ducting and supporting at least part of the retention means, the support member having a base and at least a first limb, at a substantial angle to the base, which limb is adjacent the inner surface of the circumferential wall of the ducting and has a notch on its open end passing over the damper element axle; and

securing means securing the limb to the inner surface of the circumferential wall of the ducting at a position between the axle and the base of the support member.

The Examiner asserts that Magill discloses the elements of claim 66. Applicant respectfully submits, however, that Magill fails to disclose several elements of claim 66.

Magill does not disclose "a support member fixed to the inner surface of the circumferential wall of the ducting and supporting at least part of the retention means, the support member having a base and at least a first limb, at a substantial angle to the base, which limb is adjacent the inner surface of the circumferential wall of the ducting," as recited in claim 66.

The Examiner asserts that "a support member . . . supporting at least part of the retention means" is disclosed by the additional cover plate 38a of Figs. 15-16 in Magill. Office Action of June 12, 2008, at 6. Applicant respectfully submits, however, that the cover plate 38a of Magill does not "support[] at least part of the retention means," as recited in claim 66. The Examiner identifies the retention means of Magill as comprising the fusible element 70, the blade bearing components 19, and the gear wheels 22. Office Action of June 12, 2008, at 6. The cover plate 38a does not "support" any of these elements, but rather covers the control box 36. See, Magill, Col. 6, lines 40-51.

Further, Magill fails to disclose the support member having "at least a first limb . . . which limb is adjacent the inner circumferential wall of the ducting," as recited in claim 66. While in the outstanding Office Action, the flanges 100 of Figs. 15-16 are identified as corresponding to the "at least a first limb" of claim 66 (Office Action of June 12, 2008, at 6), Applicant respectfully submits that the flanges 100 are located on the cover plate 38a, which is located on the outside of the ducting (Magill, Col. 6, lines 40-46). Thus, the flanges 100 of Magill are also located on the outside of the ducting, and do not disclose a "first limb . . . adjacent the inner surface of the circumferential wall of the ducting," as recited in claim 66.

Furthermore, Magill fails to disclose "securing means securing the limb to the inner surface of the circumferential wall of the ducting at a position between the axle and the base of the support member," as recited in claim 66. The Examiner asserts that the screw holes 102 in the flanges 100 of Figs. 15-16 in Magill disclose these elements. Office Action of June 12, 2008, at 7.

The screw holes 102, however, do not secure the flanges 100 to the inner surface of the circumferential wall of the ducting as recited in claim 66. Rather, the screw holes 102 secure the flanges 100 to the outside of the duct. See Magill, Col. 6, lines 40-46 (describing “an additional cover plate 38a in Fig. 15 . . . designed to be screwed or bolted to the outside of a duct 98” and the “flanges 100 with bolt or screw holes 102 . . . to permit this to be done”) (emph. added).

Thus, Magill fails to disclose all of the elements of claim 66. Claim 72 recites similar elements, and is allowable for at least the reasons discussed above with regard to claim 66. Claims 67 and 73 depend from claims 66 and 72, respectively, and are allowable for at least the reasons discussed above. Accordingly, Applicant respectfully requests that the § 102(b) rejection of claims 66-67 and 72-73 be withdrawn, and the claims allowed.

Claims 59 and 71 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Magill in view of U.S. Patent No. 5,779,540 (“Nailor”). This rejection is respectfully traversed.

Claim 59 depends from independent claim 44, and recites the damper of claim 44, “wherein the protruding end portion of the movable member actuates a microswitch.” Claim 71 depends from claim 69, and recites a similar limitation. As discussed above, the dampers of claims 44 and 69 are not disclosed by Magill. Accordingly, claims 59 and 71 are patentable over Magill for at least the reasons discussed above.

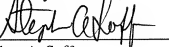
Applicant respectfully submits that claims 59 and 71 are distinguishable over Magill in view of Nailor for further reasons. As discussed with regard to claim 44, the Examiner identifies the actuating pin 82 of Magill as corresponding to the “movable member” of claim 44. Yet the actuating pin 82 of Magill is withdrawn internally to an inner surface of the circumferential wall of the ducting, rather than “protrud[ing] or protrud[ing] further from an opening in the exterior of the body member externally from the outer surface of the circumferential wall of the ducting when the actuating member moves to release the damper element.” Thus, it would not have been obvious to one of ordinary skill in the art at the time of the invention to combine the damper of Magill with the micro-switches disclosed in Nailor. Because the actuating pin 82 in fact does not protrude or

protrude further externally from the outer circumferential wall of the ducting, it would not be obvious to have the “protruding end portion . . . actuate[] a microswitch,” as recited in claims 59 and 71. Rather, the actuating pin 82 of Magill would not operate the Nailor micro-switch, because the actuating pin 82 would not extend to the switch. Accordingly, Applicant respectfully requests that the § 103(a) rejection of claims 59 and 71 be withdrawn, and the claims be allowed.

In view of the above amendment, Applicant respectfully submits that the present application is in condition for allowance. Favorable consideration is respectfully requested.

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Respectfully submitted,

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